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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,002	09/22/2003	Duane R. Pillar	061300-0364	1930

26371 7590 08/07/2007
FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

EXAMINER

BROADHEAD, BRIAN J

ART UNIT	PAPER NUMBER
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3661

MAIL DATE	DELIVERY MODE
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08/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/668,002

Applicant(s)

PILLAR ET AL.

Examiner

Brian J. Broadhead

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 13, 14 and 20-68 is/are pending in the application.
- 4a) Of the above claim(s) 20-30, 36-45 and 49-51 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 46-48 and 61-63 is/are allowed.
- 6) ☒ Claim(s) 1-7, 13, 14, 31-33, 35, 55-60 and 64-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4-12-07, 4-3-07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-3-07 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 2 recites a limitation that allows the output device to be engaged when the transmission is engaged by brake is engaged or clutch disengaged. However, the limitations claim one specifically recite that in all cases when the transmission is in gear the output device is disables. The limitations are at odds with each other and cannot be part of the same invention. It appears that claim 2 is an improper dependant claim since one could infringe claim 2, without infringing claim 1.

5. Claim 3 is also indefinite through dependency.

Claim Rejections - 35 USC § 103

Art Unit: 3661

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5 6, 7, 13, 31, 32, 33, 35, and 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horman et al., 6482124, in view of the admitted prior art of 6421593.

3. Horman et al. disclose a transmission (26), the system is configured to immediately disable the output device when the transmission is in gear on lines 35-53, on column 4, and lines 2-7, on column 2; a chassis and body in figure 12; the output device pertains to the body of the refuse vehicle (compactor) on lines 22, on column 1; the output device is powered by a PTO on line 24, on column 1; and the output device is a compactor on line 22, on column 1; and disable the output when in reverse (reverse is "in gear"); moving the transmission out of gear when a brake is applied and moving into gear when the brake is disengaged on lines 10-60, on column 3. Horman et al. do not disclose the plurality of microprocessor interface modules with the communication network; and the transmission status information being stored in the interface modules. The admitted prior art of 6421593 teaches the plurality of microprocessor interface modules with the communication network; and the transmission status information being stored in the interface modules explicitly teaches the plurality of microprocessor interface modules with the communication network; and the transmission status information being stored in the interface modules. It would have been obvious to one of

Art Unit: 3661

ordinary skill at the time the invention was made to use the admitted prior art in the invention of Horman et al. because such modification would make the vehicle more redundant able to handle errors.

4. Claims 59, 60, are rejected under 35 U.S.C. 103(a) as being unpatentable over Horman et al., in view of the admitted prior art of 6421593 as applied to claims 1, 4, 5 6, 7, 13, 31, 32, 33, 35, and 55-58, above, and further in view of Gaugush et al., 6269295.

5. Horman et al. and Kemper disclose the limitation as set forth above. They do not disclose any ranges of speeds to disable the output device. Gaugush et al teaches vehicle speed thresholds that need to be met before auto neutral can shift to neutral on lines 45-56, on column 4. It would have been obvious to one of ordinary skill in the art to use the threshold speeds in the claims because it is a design choice based on the vehicle used and the thresholds would be need to make auto neutral possible in the invention of Horman et al. It is known in the art that when transitioning from high-speed travel to auto neutral it is not good for the vehicle to go straight to neutral. These thresholds are provided so that the vehicle does not get damaged or wear out faster. In other words, the vehicle speed threshold is almost an inherent part of the auto neutral disclosed by Horman et al.

6. Claims 14, 64, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al., 5299129, in view of the admitted prior art of 6421593.

7. Uchida et al. disclose an output device and the control is configured to disable the output device with the refuse vehicle reaches a threshold speed on lines 50-56, on column 2. Uchida et al. does not disclose the plurality of microprocessor interface

modules with the communication network; and the transmission status information being stored in the interface modules; or the specific speed ranges in the claims. The admitted prior art of 6421593 teaches the plurality of microprocessor interface modules with the communication network; and the transmission status information being stored in the interface modules explicitly teaches the plurality of microprocessor interface modules with the communication network; and the transmission status information being stored in the interface modules. It would have been obvious to one of ordinary skill at the time the invention was made to use the admitted prior art in the invention of Uchida et al. because such modification would make the vehicle more redundant able to handle errors. The admitted art is silent on vehicle speed ranges. However, Uchida discloses that the PTO can be active with the vehicle is "substantially" at rest on lines 31-33, on column 3. It would be within routine skill in the art to determine that "substantially" at rest includes values in the range of the claims and as such it would have been obvious to one of ordinary skill in the art at the time the invention was made.

8. Claims 66, 67, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al., 5299129, in view of the admitted prior art of 6421593 as applied to claim 64 above, and further in view of Official Notice.

9. Uchida and Kempen et al. disclose the limitations as set forth above, and Uchida et al. disclose his invention as being applicable to PTO connected device on a garbage truck on lines 6-7, on column 1. They do not disclose a refuse loader, refuse compactor, or an output device that pertains to the body of the refuse vehicle. Official notice is given that a refuse loader, refuse compactor, or an output device that pertains

Art Unit: 3661

to the body of the refuse vehicle are known PTO connected devices on a garbage truck. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the devices claimed on the garbage truck of Uchida because they are known PTO device.

Allowable Subject Matter

10. Claims 46-48, and 61-63 are allowed.
11. Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
12. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose continuing an operation that has already begun once the vehicle has been placed in gear.

Response to Amendment

13. The declaration filed on 4-3-07 under 37 CFR 1.131 is sufficient to overcome the Brooks et al. reference.

Response to Arguments

14. Applicant's arguments with respect to claims 1-7, 13, 14, 31-33, 35, 55-60, and 64-68 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 571-272-6957. The examiner can normally be reached on Tuesday through Friday.

Art Unit: 3661

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brian J. Broadhead
Examiner
Art Unit 3661